

REMARKS

The July 21, 2009 Office Action identifies the following issues:

- The drawings are objected to under 37 CFR 1.83(a) because the claims purportedly recite features that are not shown in the drawings.
- Claims 1, 2, 4-6, 8, 9, 12 and 13 stand rejected under 35 U.S.C. 112, second paragraph.
- Claims 1, 4-6, 8, 9, 14, 16, 19, 21 and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,260,085 issued to Jefferson in view of U.S. Patent No. 5,215,234 issued to Pasley.
- Claim 2 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Jefferson and Pasley, and further in view of U.S. Patent No. 6,666,362 issued to LeTrudet.
- Claims 12 and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Jefferson and Pasley, and further in view of U.S. Patent No. 6,467,779 issued to Mills.
- Claims 28, 29 and 31 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Jefferson in view of U.S. Patent No. 5,724,225 issued to Hrusoff et al. ("Hrusoff").
- Claims 13, 27 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

The following remarks address each of these issues and places the present application in condition for allowance.

Objections to the Drawings

The USPTO incorrectly objects to the drawings because the "shoulder member" is clearly shown and appropriately labeled in the Figures. Figure 4 depicts the shoulder or lip 28 on the cargo container 14 (See Para. [0025] of the specification). Therefore, the drawings meet the requirements in 37 CFR 1.83(a).

Claims 1, 2, 4-6, 8, 9, 12 and 13 Are Definite Under 35 U.S.C. §112

Applicants address the Examiner's statement regarding the location of the shoulder member being unclear. The originally filed disclosure states that the shoulder or lip 28 may be located on the cargo container 14, however, as would be understood by a person of ordinary skill in the art, the lip or shoulder member 28 may be located on either the platform 12 or the container 14, just as the latch 24 and catch 26 may be located on either the platform 12 or the container 14 (See Figures 1 and 4 and Paras. [0025] and [0030] of the specification).

Moreover, as illustrated in Figure 4, the lip or shoulder member 28 may be located on the platform 12 thereby providing support for the claims as written. Therefore, claims 1, 2, 4-6, 8, 9, 12 and 13 are definite under 35 U.S.C. §112.

Claims 1, 2 4-6, 8, 9, 12-14, 16, 19, 21, 22, 26, 27 and 31 Are Patentable Over Jefferson in view of Pasley

Independent claim 1 includes the limitations of a "shoulder member," "at least one latch or lock," and a "catch member" where the latch or lock including a catch member engages with the shoulder member. Neither Jefferson nor Pasley discloses a "shoulder member," "at least one latch or lock," and a "catch member." In addition, neither Jefferson nor Pasley discloses at least one latch or lock including a catch member to engage with a shoulder member, as required by claim 1.

The USPTO admits that Jefferson does not disclose the shoulder member or at least one latch or lock including a catch member to engage with a shoulder member. (Office Action at 4.) The USPTO is attempting to use Pasley to correct the deficiencies of Jefferson. Pasley, however, does not disclose a shoulder member. The mating clasp 42 of Pasley is not a shoulder member as recited in claim 1. In Pasley, the USPTO may be pointing to the mating clasp 42 to be a catch

member and the hook 40 to be a latch or lock, however, Pasley still lacks a shoulder member, as required by claim 1 and as shown in Figure 4 of the present application.

Therefore, the combination of Jefferson and Pasley cannot render claim 1 obvious, and Applicants respectfully submit that claim 1 is clearly distinguishable and patentable over Jefferson in view of Pasley. Likewise, dependent claims 2, 4-6, 8, 9, 12 and 13 are patentable over Jefferson in view of Pasley.

Independent claim 14 includes the limitation of a platform comprising “at least one light fixture located on said platform side wall.” Neither Jefferson nor Pasley disclose the light fixture as recited in amended claim 14 – “at least one light fixture located on said platform side wall.” Therefore, claim 14 is clearly distinguishable and patentable over Jefferson in view of Pasley. Likewise, dependent claims 16, 19, 21, 22, 26, 27 and 31 are patentable over Jefferson in view of Pasley.

Claims 28-30 Are Patentable Over Jefferson in view of Hrusoff

Independent claim 28 includes the limitations of “at least one drainage aperture located in said platform side wall” and “at least one drainage aperture located in said cargo container side wall aligned.” With regard to Jefferson, Figures 3 and 4 disclose drainage apertures in the bottom surface of the container and platform. The USPTO admits that “Jefferson does not disclose the at least one aperture located in the platform side wall.” (Office Action at 12.)

The USPTO is attempting to correct the deficiencies of Jefferson with Hrusoff, however, Hrusoff is for a laptop tray. In addition, laptops generally do not require drainage holes, as laptops generally are not used in water nor do they hold water, which may require drainage. Somebody skilled in the art is not going to look to laptops to utilize a drainage hole in a tray.

Specifically, space 11 provides “[a]ccess to the laptop computer unit’s internal floppy disk drive,” which has nothing to do with drainage. See Hrusoff, Col. 5, lines 15-19.

Claim 28 requires “at least one drainage aperture located in said platform side wall” and “at least one drainage aperture located in said cargo container side wall aligned with said drainage aperture of said platform for selective drainage from the cargo container interior compartment to the exterior of the cargo container.”

In addition, the USPTO states that it would have been obvious in Jefferson to “make the tray (30) with an aperture for the same reasons and benefits that the apertures (36 & 38) provide to elements (112 & 82).” The apertures (36 & 38), however, are bolt holes used to secure the bottom wall of the container 40 in the rack 18 by wing nuts 70 (see Col. 3, lines 29-35) and thus would not be used for the same reasons. Bolt holes are used to secure components together, not to permit drainage.

Therefore, claim 28 is clearly distinguishable and patentable over Jefferson in view of Hrusoff. Likewise, dependent claims 29 and 30 are patentable over Jefferson in view of Hrusoff.

CONCLUSION

In light of the foregoing, Applicants submit that the application is now in condition for allowance. If the Examiner has any questions pertaining to the above, then the undersigned attorney would welcome a phone call to provide any further clarification or a formal interview.

Respectfully submitted,

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